

CLAIM OBJECTIONS AND REJECTIONS

Rejections Under 35 U.S.C. 103(a)

Claims 1-6, and 15-17 stand as rejected under 35 USC 103 (a) as being unpatentable over Foote et al. (U.S.Pat.No. 2003/0160944)) and Ubillos (U.S.Pat.No. 5,999,173).

With respect to Claim 1, it is said that applicant's step (d) (among others) may be found in Figures 1 and 3, and paragraph [0056] of Foote, i.e., the step of "selecting a video transition." It is further said that applicant's step (g) (i.e., "applying said synchronized video transition...") may be found in Foote at Figures 4-7, and in paragraph [0051] and/or Ubillos.

Turning first to Claim 1 as amended, it should be noted that for at least all of the reasons advanced previously in applicants' papers filed July 3, 2007 and November 21, 2007, (in the parent case) and additionally in view of the arguments submitted in connection with the instant RCE are incorporated by reference herein, it is believed that this claim is in condition for allowance.

Additionally, applicants would note the amended language above that makes it clearer that applicants' transitions are *active* in the sense that they operate on the video itself, rather than just being inserted to increase the time between successive video markers. Inserting a static title or graphic block between two markers (i.e., Foote's approach) is not what applicants do. Applicants use transitions that are applied to the video work to produce a modified video. Foote does not do this.

As a consequence, it is believed that Foote at least does not contain applicants' steps of selecting an active transition effect, adjusting a length of that effect, and applying the

synchronized transition to the video work to create a video work that has been modified by the transition, thereby synchronizing the video work with an audio marker.

Thus, for at least all of the above-identified reasons it is believed that the instant rejection of Claim 1 under Section 103 is improper and should be withdrawn.

With respect to Claim 2, it is said that the modified Foote teaches a method of aligning a video work with an audio work according to Claim 1 wherein step (a) comprises applicants' steps (a1)-(a3).

In reply, applicants would state that it is believed that Claim 2, depending as it does from an independent claim believed to be allowable, should similarly be allowed. Further, and at least for the reasons identified above, the instant claim is allowable over Foote and/or Ubillos. In more particular, neither Foote nor Ubillos, individually or in combination, teach applicants' use of an active transition that is adjustable as to length and that is applied to the video work to produce a video that is synchronized with an audio work.

As such, it is believed that the instant rejection of Claim 2 under Section 103 is improper and should be withdrawn.

With respect to Claim 3, it is said that the modified Foote teaches a method of aligning a video work with an audio work according to Claim 1, wherein step (a) comprises selecting an audio criteria that at least comprises a rule for identifying change points, assigning a priority to each criterion, selecting a highest priority ordering, using the selected audio criterion to identify at least two change points, and, selecting a plurality of identified change points, thereby

identifying a plurality of audio markers within the audio work. Passages in Foote, i.e., Figures 3-7, and paragraphs [0056] and [0063], are given in support.

In reply, applicants would state that, it is believed that Claim 3, depending as it does from an independent claim believed to be allowable, should similarly be allowed. Further, and at least for the reasons identified above, the instant claim is allowable over Foote and/or Ubillos.

Applicants respectfully differ with the Examiner with respect to the previous statement. Neither Foote, nor Ubillos, individually or in combination teach or suggest applicants' approach of selecting a plurality of different criteria for identifying change points, assigning a priority to each such criterion, identifying change points using each of said criteria, and then choosing audio markers s according to the priority assigned to each criterion.

The passage relied upon the Foote (e.g., paragraph [0063]) discusses the use of a *single* criterion to select change points, with different parameters of that criterion (e.g., its threshold) being adjusted to produce more or fewer change points depending on the circumstances. This is not the same as applicants' approach which uses two or more completely different criteria to select change points, with the resulting audio / video alignment being controlled by the priority assigned to each change point. See, e.g., the instant application at paragraph [0016], among others, for a discussion of this approach.

As such, it is believed that the instant rejection of Claim 3 under Section 103 is improper and should be withdrawn.

Turning next to Claim 4, it is said that the modified Foote teaches a method of aligning a video work with an audio work according to applicants' steps (e1) – (e5).

In reply, applicants would state that, it is believed that Claim 4, depending as it does from an independent claim believed to be allowable, should similarly be allowed. Further, and at least for the reasons identified above, the instant claim is allowable over Foote and/or Ubillos. In more particular, neither Foote nor Ubillos – alone or in combination – teach applicants’ approach of synchronizing a video and audio work by using an active transition effect, and aligning the audio and video work with an active transition (as opposed to aligning with an inserted graphic or title). Additionally, neither Foote nor Ubillos teaches applicant’s further approach of examining the audio / video markers to determine whether or not they are suitable for use with a given marker and transition.

As a consequence, it is believed that the instant rejection of Claim 4 is improper and should be withdrawn.

With respect to Claim 5, it is said that Foote teaches a method of aligning a video with an audio work according to Claim 1, comprising the further steps of reading the aligned work and playing the aligned work on a display device.

In reply, for at least all of the reasons identified above, it is believed that the instant claim is allowable over the art of record. Further, it is believed that this claim, depending as it does from a claim believed to be allowable, is similarly allowable.

With respect to Claim 5 in particular, applicants believe that neither Foote nor Ubillos – alone or in combination – teaches the reading and displaying of an aligned video work that has been prepared according to the methods taught herein, e.g., the audio and video components have been aligned using only an adjustment in the duration of an active transition.

As such, it is believed that the instant rejection of Claim **5** is improper and should be withdrawn.

Turning next to Claim **6**, it is said that Foote teaches a method of aligning a video with an audio work according to Claim **1**, wherein the computer readable medium is selected from the group consisting of computer RAM, etc.

In reply, for at least all of the reasons identified above, it is believed that the instant claim is allowable over the art of record. Further, it is believed that this claim, depending as it does from a claim believed to be allowable, is similarly allowable.

With respect to Claim **6** in particular, applicants believe that neither Foote nor Ubillos – alone or in combination – teaches the storing on a computer readable medium of an aligned video work that has been prepared according to the methods taught herein, e.g., the audio and video components have been aligned using only an adjustment in the duration of an active transition.

As such, it is believed that the instant rejection of Claim **6** is improper and should be withdrawn.

Cancellation of Claims **9 – 17** by amendment *supra* has made moot the rejections of these claims.

Turning next to Claim **18**, it is said that this claim is rejected on the same rationale as Claims **1** and **3**.

In reply, for at least all of the reasons identified above, it is believed that the instant claim is allowable over the art of record. In more particular, Claim **18** discloses a method not taught or

suggested by any reference of record. Claim **18** describes an alignment process that utilizes two different criteria for obtaining audio markers. Each criterion is used to select plurality of audio markers, which, of course, results in two different sets of audio markers. Then, the audio markers are compared with the video markers to determine which would be suitable for use in alignment, with the audio marker that is ultimately chosen being based on the priority assigned to the different criteria.

Nothing in Ubillos or Foote discusses an approach such as this. Foote uses a single criterion in selecting his audio / video markers. Nothing in the art of record discusses an approach that uses two different criterion such as is taught by the instant inventors.

As such, it is believed that Claim **18** is allowable over the prior art and the instant rejection should be withdrawn.

Finally, it is said that Claims **19** and **20** are rejected under the rationale as Claims **1** and **3**.

In reply, for at least all of the reasons identified above it is believed that these two claims are allowable. Further, each of these claims depends from an independent claim believed to be allowable and, thus, each is further believed to be allowable. Finally, each incorporates as a limitation the requirement that two different criterion be used to select audio markers, that each criterion be assigned a priority, and that the marker that is actually used should it be chosen based on its priority.

As such, it is believed that the instant rejection of Claims **19** and **20** is improper and should be withdrawn.

Turning now to applicants' new claims, Claim **21** and **22** claim a method wherein multiple criteria are used to select markers within the audio work. Each of the criteria is assigned a priority which is then inherited by the audio markers that are located using that criterion. Given a video clip, the decision of which of possibly many different audio markers will be based on the priority assigned to the criterion that gave rise to the marker.

Nothing in Foote or Ubillos teach or suggest applicants' use of multiple prioritized criteria when selecting audio markers.

As such, it is believed that Claims **21** and **22** are distinguishable over the prior art and should be allowed to issue.

With respect to new Claim **23**, this claim describes an embodiment of applicants' invention wherein video clips are assigned a minimum and maximum duration. The audio markers are then rejected or accepted based on whether the subject clip can be shorted or lengthened within the defined minimum / maximum. If not, a new marker will be chosen.

Nothing in Foote or Ubillos teach or suggest applicants' use of multiple video clips that have minimum and maximum durations over which they can be adjusted in order to synchronize a video work with an audio work.

As such, it is believed that Claim **23** is distinguishable over the prior art and should be allowed to issue.

With respect to new Claim **24**, this claim is dependent from an independent claim believed to be allowable. Nothing in Foote or Ubillos teaches or suggests the synchronization of a video work by using multiple video clips that are assigned minimum and maximum durations

over which they can be adjusted to implement this synchronization. The storage of such an aligned video work on a computer readable medium selected from a group of computer RAM etc. is therefore also not taught by Foote or Ubillos.

As such, it is believed that Claim **23** is distinguishable over the prior art and should be allowed to issue.

In summary, it is believed that the instant claims as amended are patentable over Foote and Ubillos and that this case is in condition for allowance.

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In view of the foregoing, the applicants believe that the rejections and objections offered by the Examiner have been overcome and should be withdrawn. The claims as-filed and as-amended are in condition for allowance and should be passed to the issue branch. Early and favorable action is earnestly solicited.

Respectfully submitted,

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